

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT, herein the "Agreement," is made and entered into as of the _____ day of _____, 2008, by and between Jose Luis Tovar, an individual, herein the "Seller," and the Redevelopment Agency of West Valley City, a municipal corporation of the State of Utah, herein the "Buyer."

RECITALS:

- A. The Seller owns Lot 5, Holmberg Subdivision, located at 3537 South Holmberg Street, in West Valley City, Salt Lake County, State of Utah, herein the "Property." The Property is more particularly described and depicted on the attached Exhibit "A," which is incorporated herein. For purposes of this Agreement, the term "Property" shall include the Property purchased pursuant to the terms of this Agreement and all of the Seller's right, title, and interest in and to all leases, privileges, rights-of-way, easements, and appurtenances, and all other rights appurtenant to or connected with the beneficial use or enjoyment of the Property, including, without limitation, any of the Seller's right, title, and interest in and to immediately adjacent public streets, roads, alleys, or rights-of-way; all mineral rights; all surveys in the Seller's possession or control relating to the Property; and all soils and other geological or environmental studies, investigations, and reports, engineering studies and reports, wetlands information and reports, and landscaping plans and specifications in the Seller's possession or control relating to the Property.
- B. The Seller desires to sell the Property to the Buyer, and the Buyer desires to purchase the Property from the Seller, upon the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the covenants and promises contained in this Agreement, the Buyer and the Seller agree as follows:

AGREEMENT:

- 1. **Purchase of Property.** Subject to the terms and conditions of this Agreement, the Seller agrees to sell the Property to the Buyer, and the Buyer agrees to purchase the Property from the Seller. The Seller hereby agrees to effect this purchase and sale transaction through the use of a Warranty Deed, subject only to those title matters which are acceptable to the Buyer.
- 2. **Purchase Price.**
 - a. Purchase Price. The Purchase Price shall be \$175,000.00, payable in United States dollars.
 - b. Earnest Money. Within 10 days of the execution of this Agreement by all parties, the Buyer shall pay \$5,000 earnest money into escrow account with the title company to

be paid to the Seller at Closing. The Earnest Money shall become non-refundable upon Buyer's approval of the Title to the property and successful financing of the purchase by the issuance of Redevelopment Bonds.

- c. Balance of Purchase Price. The Buyer shall pay the entire Purchase Price, less the Earnest Money, in cash at the Closing.
3. **Conditions to Closing.** The Closing shall not occur until each one of the following conditions precedent has been satisfied, in the Buyer's sole discretion, prior to the Closing; provided, however, that the Buyer is entitled to waive any of the conditions in writing.
- a. Approval of Title. At the Closing, the title to the Property shall be in a condition that is acceptable to the Buyer in its sole discretion. At the Buyer's written request, the Seller shall provide such documentation, releases, or reconveyances as may be necessary to provide a title acceptable to the Buyer.
 - b. Water Rights. The parties agree that all water rights, water shares, or stock owned by the Seller and associated with the property, if any, shall be conveyed to the Buyer.
 - c. Mineral Rights. The sale includes all mineral rights to the Property.
4. **Closing.** The term "Closing" is used in this Agreement to mean the time at which the title company records the Deed in the office of the Salt Lake County Recorder. The Closing shall occur on or before May 31, 2008, unless the Buyer and the Seller mutually agree in writing to close the transaction on an alternate date.
- a. Buyer Deliveries. On or before the Closing Date, the Buyer shall deliver payment of the balance of the cash Purchase Price.
 - b. Seller Deliveries. On or before the Closing Date, the Seller shall deliver the following to the Buyer:
 - (i) The duly executed and acknowledged Warranty Deed in favor of the Buyer, conveying fee title to the Property, free and clear of all liens and encumbrances which are unacceptable to the Buyer.
 - c. Buyer's Costs. The Buyer shall pay the following items at or before the Closing:
 - (i) The Purchase Price.
 - (ii) Closing, escrow and recording costs.
 - (iii) The cost of title insurance.

- d. Taxes and assessments. Any taxes or other assessments due or to be levied against the Property shall be prorated as of the Closing date.
- e. Failure to Deliver.
 - (i) If the Buyer fails or refuses to deliver the required funds at the Closing, the Seller may, at the Seller's option, extend the time for the Closing, or may commence an action for damages, or bring an action to compel specific performance by the Buyer. All costs shall be borne by the party incurring the cost. The Seller expressly agrees that the action for damages, or action for specific performance pursuant to this section shall be the Seller's sole remedies for the Buyer's failure to perform or deliver at the Closing.
 - (ii) If the Seller fails or refuse to deliver a valid and acceptable Deed, or such other documents as may be necessary for the Seller to perform at the Closing, the Buyer may, at the Buyer's option, extend the time for the Closing, or may take any legal action necessary to enforce the Buyer's rights, to be made whole for damages caused by the Seller's default, and/or to compel specific performance by the Seller.

5. Seller's Representations, Warranties and Covenants.

- a. The parties expressly understand that each of the following representations, warranties, and covenants made herein is material, and that the Buyer is relying upon each of such representations, warranties, and covenants as true and correct as of the date on which the parties executed this Agreement and as of the Closing Date, as though such representations, warranties and covenants had been made on each of such dates. As a condition to the Closing, the Seller hereby makes the following representations and warranties, in addition to any others made in this Agreement:
 - (i) At the Closing, the Seller will be the sole owner of the Property and will hold title to the Property in fee simple, free and clear of all encumbrances, except for those found acceptable by the Buyer.
 - (ii) The Seller warrants that there is no pending claim, suit, or litigation that involves the Property.
 - (iii) At the Closing, there will be no unpaid bills or claims in connection with the Property.
 - (iv) Between the date of this Agreement and the Closing date, the Seller, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Property to any mortgage, pledge, lien, or other encumbrance.

- (v) This Agreement and the consummation of this transaction do not and will not contravene any provision of any judgment, order, decree, writ, or injunction, and will not result in a breach of, constitute a default under, or require consent pursuant to any credit agreement, lease, indenture, mortgage, deed of trust, purchase agreement, guaranty, or other instrument to which any of the persons or entities comprising the Seller are presently a party or by which any of the same or their respective assets are presently bound or affected.
- (vi) All documents delivered to the Buyer by the Seller pursuant to this Agreement are true, correct, and complete originals or accurate copies of originals.
- (vii) Between the date of this Agreement and the Closing date, the Seller, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Property to any mortgage, pledge, lien, or other encumbrance.
- (viii) To the actual knowledge of the Seller no hazardous waste or toxic substances have been stored on, released into, generated on, or deposited upon the Property or into any water systems on or below the surface of the Property, and the Property complies with all local, state, and federal hazardous waste laws, rules, and regulations.
- (ix) The Seller hereby agrees and covenants that the Purchase Price being paid by the Buyer constitutes full and adequate consideration for the Property and rights being acquired by the Buyer.
- (x) These representations, warranties, and covenants of the Seller shall survive the Closing on the Property.

6. **Brokerage Commissions.** The Buyer is represented by Broker Dee Hansen of the DRH Company. The Seller is not represented by a broker or real estate agent in this transaction. The Buyer shall be solely responsible for the payment of the commission to Dee Hansen in this transaction. Further, the Seller hereby indemnifies the Buyer from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Seller. The Buyer hereby indemnifies the Seller from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Buyer.

7. **Additional Documents.** Both the Buyer and the Seller agree to execute all other documents and to do such other acts as may be reasonably necessary or proper in order to consummate the transaction contemplated by this Agreement.

8. **Notices.** All notices, requests, demands, and other communications required under this Agreement, except for normal, daily business communications, shall be in writing. Such written communication shall be effective upon personal delivery to any party or upon being sent by overnight mail service; by telecopy (with verbal confirmation of receipt); or by certified mail, return receipt requested, postage prepaid, and addressed to the respective parties as follows:

If to the Seller: Jose Tovar
3537 South Holmberg Street
West Valley City, Utah 84119

If to the Buyer: Brent Garlick
RDA Director
3600 Constitution Boulevard
West Valley City, Utah 84119
Telephone: 801-963-3473
Facsimile: 801-963- 8434

With a copy to: J. Richard Catten
City Attorney
West Valley City
3600 Constitution Boulevard
West Valley City, Utah 84119
Telephone: 801-963-3271
Facsimile: 801-963-3366

Either party may change its address for purposes of this Agreement by giving written notice to the other party.

9. **Attorney's Fees.** Should it become necessary for either party to enforce its rights under this Agreement, whether in suit or otherwise, the prevailing party shall be entitled to recover from the unsuccessful party reasonable attorney's fees and costs, in addition to any other relief to which the party attempting to enforce its rights hereunder may be entitled.
10. **Modification.** Neither party to this Agreement may amend or modify this Agreement, except in a writing executed by the parties hereto.
11. **Risk of Loss.** If, prior to the Closing Date, the Property or any portion thereof is damaged by fire, acts of God, or other casualty or cause, the Buyer shall have the right to terminate this Agreement and the Earnest Money shall be refunded to Buyer.
12. **Entire Agreement.** The parties expressly agree that this Agreement and the exhibits attached hereto constitute the full and complete understanding and agreement of the parties, and that this Agreement supersedes all prior understandings, agreements, and conversations

between the parties, whether oral or written. Any prior negotiations, correspondence, or understandings related to the subject matter of this Agreement shall be deemed to be merged into this Agreement and the attached exhibits.

13. **Severability.** If any term or provision of this Agreement is invalid or unenforceable for any reason whatever, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
14. **Captions and Headings.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.
15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original for all purposes, but all of which shall constitute but one and the same instrument.
16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.
17. **Assignability.** This Agreement shall bind and inure to the benefit of the assignees, heirs, and successors-in-interest of the Buyer and the Seller. Neither the Buyer nor the Seller shall assign its rights or delegate its obligations hereunder without the prior written consent of the other.
18. **Time of the Essence.** Time is of the essence with respect to the performance of the parties under this Agreement.
19. **Waiver.** A waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any other subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first above written.

BUYER:
Redevelopment Agency of West Valley City

Executive Director

ATTEST:

Secretary

APPROVED AS TO FORM
WVC Attorney's Office

By: _____

Date: _____

Seller

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this _____ day of April, 2008, personally appeared before me Jose Luis Tovar, the
signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public

EXHIBIT “A”

Salt Lake County Parcel Number: 15-33-126-004

Street Address: 3537 South Holmberg Street, West Valley City, Utah 84119

Legal Description:

LOT 5, HOLMBERG SUBDIVISION, according to the official plat, on file and of record in the Office of the Salt Lake County Recorder.